

or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with:

- (1) Any provision of the Act;
- (2) Any regulation in this subchapter;

or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty for each day of the continuance of the failure.

(b) Any person who knowingly and willfully:

- (1) Violates any provision of the Act;
- (2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;
- (3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;
- (4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;
- (5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or
- (6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity de-

scribed in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with subpart 1.07 of 33 CFR part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings.

(c) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings or to close the case.

Subpart B—Inspections

§ 140.101 Inspection by Coast Guard marine inspectors.

(a) Each unit engaged in OCS activities is subject to inspection by the Coast Guard.

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors may inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

(c) As part of an inspection, a marine inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable Coast Guard regulations. The marine inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to be conducted to minimize disruption of unit activities and risk to life or property.

(d) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(e) Coast Guard marine inspectors conduct an initial inspection of each fixed OCS facility installed after June 27, 1988, to determine whether the facility is in compliance with the requirements of this subchapter.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 84-098a, 53 FR 18980, May 26, 1988]

§ 140.103 Annual inspection of fixed OCS facilities.

(a) The owner or operator of each fixed OCS facility shall ensure that the facility is inspected, at intervals not to exceed 12 months, to determine whether the facility is in compliance with the requirements of this subchapter.

(b) Except for initial inspections under § 140.101(e), inspections by Coast Guard Marine inspectors do not meet the requirements for an inspection under paragraph (a) of this section.

(c) Except for initial inspections under § 140.101(e), the results of the inspection must be recorded on Form CG-5432. Forms CG-5432 may be obtained from the Officer in Charge, Marine Inspection. The owner or operator shall submit the completed Form CG-5432 to the Officer in Charge, Marine Inspection, within 30 days after completion of the inspection.

(d) For facilities installed on the OCS after June 27, 1988, the 12 month period under paragraph (a) of this section begins with the initial inspection under § 140.101(e). For facilities on the OCS on June 27, 1988, the 12 month period begins upon completion of the first inspection under paragraph (a) of this section, which inspection must be completed within 12 months after June 27, 1988. Before September 26, 1988, the owner or operator shall notify the Officer in Charge, Marine Inspection, of the proposed inspection date for each facility.

[CGD 84-098a, 53 FR 18980, May 26, 1988]

§ 140.105 Correction of deficiencies and hazards.

(a) Lifesaving and fire fighting equipment which is found defective during an inspection and which, in the opinion of the inspector, cannot be satisfactorily repaired must be so mutilated in the presence of the inspector that it cannot be used for the purpose for which it was originally intended. Lifesaving and fire fighting equipment subsequently determined to be unrepairable must be similarly mutilated in the presence of the person making that determination.

(b) Any deficiency or hazard discovered during an inspection by a Coast Guard marine inspector is reported to the unit's owner or operator, who shall have the deficiency or hazard corrected or eliminated as soon as practicable and within the period of time specified by the Coast Guard marine inspector.

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the Form CG-5432 is submitted